IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 42 of 2006

DATED: 11.9.2006

Between:

G.Shankar Reddy petitioner

And

The Regional Manager,
Kakatiya Region, APSRTC,
Karimnagar, Karimnagar dist Respondent

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 42 OF 2006

ORAL ORDER:

The present writ petition is filed questioning the action of the respondent in withdrawing the three increments without cumulative effect from April, 1994 as illegal.

The petitioner was employed in the respondent corporation as Conductor. While so, he was removed from service by proceedings 12.9.1984. Questioning the removal order, petitioner raised an Industrial Dispute in I.D. No. 299 of 1986 on the file of the Industrial Tribunal-cum-Labour Court, Warangal. The Labour Court on consideration of the matter observed that the punishment of removal from service is disproportionate to the proved charge and denial of back wages will be sufficient punishment and passed an award dated 22.9.1987 directing reinstatement into service with continuity of service, but without backwages. The respondent implemented the award of the labour Court and reinstated the petitioner into service. Thereafter, the respondent corporation had withdrawn three notional increments with effect from April, 1994 which were granted for the period from 1984 to 1987, i.e., during the period of removal. On attaining the age of superannuation, the petitioner retired from service in the month of July, 2006. Hence, the present writ petition on the ground that withdrawal of the three increments without issuing any

notice and without affording reasonable opportunity is illegal.

Learned counsel for petitioner mainly contended that withdrawing of increments without issuing notice and without affording reasonable opportunity is bad and placed reliance on the judgment of the Apex Court in **BHAGWAN SHUKLA Vs. UNION OF INDIA AND OTHERS**[1] wherein it is held that order of reduction without affording opportunity is violative of principles of natural justice.

A counter affidavit was filed on behalf of the respondent sworn by the Law Officer stating that the Labour Court by its award dated 22.9.1987 directed reinstatement with continuity of service but without backwages and the petitioner is not entitled to notional increments for the period of out of service. It is further stated that erroneously the respondent corporation has allowed three notional increments from the period of removal from 1985 to 1988 and on receipt of detailed instructions vide circular No. 19 of 1992 dated 8.9.1992 has withdrawn the said increments. It is also contended that no notice is required to rectify the erroneous fixation of pay with notional increments.

In similar set of facts, wherein without issuing notice, the pay of an employee was reduced, the Apex Court in **Bhagwan Shukla** case (cited supra) held as under;

> "…….The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no

> such order which has the effect of an employee suffering civil consequences should be passed without putting the (*sic* employee) concerned to notice and giving him a hearing in the matter. ……"

In the present case also admittedly no notice was given before withdrawing the increments granted for the period of out of service. Hence, the action of the respondent corporation in withdrawing the increments without notice is unsustainable. The respondents are directed to issue proper notice and after affording reasonable opportunity to the petitioner pass appropriate orders in accordance with law.

Accordingly, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

DATE: 11.9.2006

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[1] 1994 (6) SCC 154